

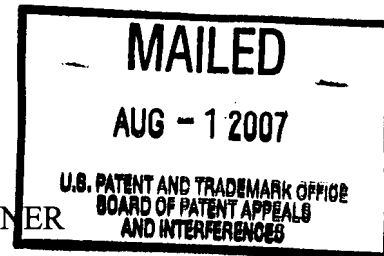
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: HENNING VON SPRECKELSEN and PETER M. MCGEOUGH

Application No. 09/701,057

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER



This application was received at the Board of Patent Appeals and Interferences on June 14, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below.

INFORMATION DISCLOSURE STATEMENT

Appellant filed an Information Disclosure Statement (IDS) dated July 10, 2006. There is no indication on the record that the above Information Disclosure Statement was considered by the Examiner. A written communication notifying appellant of the Examiner's consideration is required.

EXAMINER'S ANSWER

Clarification as to the status of claims 11, 12 and 16 is requested.

Appellants filed an Amendment dated February 27, 2003, canceling claim 11 and adding

Application No. 09/701,057

new claim 16 . The Examiner mailed an Advisory Action dated April 2, 2003, acknowledging and entering the Amendment.

The Examiner's Answer mailed September 2, 2003, incorrectly cites rejected claim 11 (see pg. 3, line 8) and further rejects claim 12 under 35 USC 103(a) as being unpatentable over Gach '618 in view of Graboski et al. '506, as applied to claim 11 above, and further in view of Flanagan '568 (see pg. 3, lines 21-23).

BOARD OF PATENT APPEALS REMAND

The Board of Patent Appeals and Interferences mailed a Panel Remand dated May 19, 2005, requesting clarification of claims 11 and 16 and the references Gach (4,815,618) and Graboski (6,117,506).

SUPPLEMENTAL EXAMINER'S ANSWER

In response to the Board of Patent Appeals and Interference Panel Remand, mailed May 19, 2005, a Supplemental Examiner's Answer was mailed June 28, 2005. However, the statement of rejection of claim 12 (pg. 4, para. 2, lines 10-11) remains inaccurate. It is stated that claim 12 is rejected under 35 USC 103(a) as being unpatentable over Gach '618 in view of Graboski et al. '506, as applied to claim 11 above, and further in view of Flanagan '568. It is again noted that claim 11 was cancelled in the Amendment dated February 27, 2003, at which time the dependence of claim 12 was amended as an independent claim.

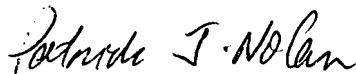
CONCLUSION

Accordingly, it is

Ordered that the application is returned to the Examiner to:

- 1) issue and mail a PTOL-90 considering the Information Disclosure Statement dated July 10, 2006;
- 2) vacate the Supplemental Examiner's Answer dated June 28, 2005,
- 3) issue a revised Examiner's Answer setting forth the pertinent rejection(s); and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



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